FILE COPY

Office - Supreme Court, U. S.
FILED
MAR 16 1944
CHARLES ELMORE CROPLEY
CLERK

No. 572 22

In the Supreme Court of the United States

OCTOBER TERM, 1943

FRED TOYOSABURO KOREMATSU

v.

UNITED STATES OF AMERICA

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

In the Supreme Court of the United States

OCTOBER TERM, 1943

No. 679

FRED TOYOSABURO KOREMATSU

v.

UNITED STATES OF AMERICA

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the court below and the two concurring opinions (R. 57–96)[1] are not yet reported. There was no opinion by the trial court. The opinion of this Court that the suspended sentence was an appealable judgment is reported in 319 U. S. 432.

JURISDICTION

The judgment of the Circuit Court of Appeals was entered on December 2, 1943 (R. 97). The

[1] References are to pages in the typewritten transcript of record.

578028—44——1

petition for a writ of certiorari was filed on February 8, 1944. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Whether Executive Order No. 9066 (7 F. R. 1407) and the Act of March 21, 1942 (56 Stat. 173, 18 U. S. C., Supp. II, 97a) authorized Civilian Exclusion Order No. 34 of the Commanding General, violated by the petitioner, which provided that persons of Japanese ancestry would be evacuated from a designated area and prohibited their remaining therein after May 9, 1942.

2. Whether the order was constitutional.

STATUTES, ORDERS, AND PROCLAMATIONS INVOLVED

These are printed in the Appendix, *infra*, pp. 15–32.

STATEMENT

Petitioner was convicted under the Act of March 21, 1942, *infra*, p. 17, of violating Civilian Exclusion Order No. 34, *infra*, pp. 23–25, in that he remained in the restricted area there designated after May 9, 1942, being found therein on May 30, 1942. Before stating the facts of petitioner's case, it will be helpful to describe the series of measures here involved.

Operation of the Exclusion Orders.—Lieutenant General John L. DeWitt, Commanding General of the Western Defense Command, acting

pursuant to his authorization by the Secretary of War to take measures under Executive Order No. 9066 throughout the Western Defense Command, issued on March 2 and March 16, 1942, respectively, his Public Proclamations Nos. 1 and 2, each of which established certain military areas within that Command and provided that certain persons or classes of persons would subsequently be ordered excluded from certain of those areas (7 F. R. 2320; 7 F. R. 2405). Thereafter, in the period from March through July, 1942, General DeWitt issued a series of Orders, termed Civilian Exclusion Orders, each of which prohibited persons of Japanese ancestry, residing in a specified portion of the military areas he had previously created, from continuing to reside therein after a specified time; the Civilian Exclusion Orders in sum effected the exclusion of all persons of Japanese ancestry from the State of California and from the western sections of the States of Washington, Oregon and Arizona.[2] General DeWitt's Public Proclamation No. 4, dated March 27, 1942

[2] The Civilian Exclusion Orders, totaling 108 in number, were published at intervals in the Federal Register, beginning with Civilian Exclusion Order No. 1, dated March 24, 1942 (7 F. R. 2581), and closing with Civilian Exclusion Order No. 108, dated July 22, 1942 (7 F. R. 5916). Civilian Exclusion Orders Nos. 1 to 99 were ratified by General DeWitt's Public Proclamation No. 7, dated June 8, 1942 (7 F. R. 4498), and Orders Nos. 100 to 108 were ratified by General DeWitt's Public Proclamation No. 11, dated August 18, 1942 (7 F. R. 6703).

(7 F. R. 2601), *infra*, pp. 22–23, which recited the necessity of providing for the welfare of the affected persons and of assuring their orderly evacuation and resettlement, terminated uncontrolled migration by prohibiting the persons ordered excluded from the coastal Military Area No. 1 from departing except in accordance with subsequent orders by General DeWitt's headquarters.

Each exclusion order subsequent to Civilian Exclusion Order No. 1,[3] and including Civilian Exclusion Order No. 34 involved in this case, *infra*, pp. 23–25, provided that "persons within the bounds of an established Assembly Center pursuant to instruction from this Headquarters are excepted from the provisions of this order while those persons are in such Assembly Center." Each order was accompanied by instructions stating that all the persons prohibited by the order from remaining in the area (hereinafter termed evacuees), would be furnished transportation to an Assembly Center or would be authorized to travel to it by private automobile in a supervised group; that the "Evacuees must carry with them on departure for the Assembly

[3] Civilian Exclusion Order No. 1 was issued on March 24, 1942, and provision for Assembly Centers, some of which were within Military Area No. 1, was not instituted until the use of voluntary methods of departing from the area was terminated by the issuance of Public Proclamation No. 4 on March 27, 1942.

Center" specified articles and would not be allowed to take certain other specified articles; and that the evacuees must report to a designated Civil Control Station at a specified time several days before the date for evacuation in order to receive further instructions (Appendix, *infra,* pp. 25–28). The same provision with respect to reporting to the Civil Control Station was also included in the body of each exclusion order. Each order provided that failure to comply with any of its provisions or any provision or the accompanying instructions would constitute a crime under the Act of March 21, 1942 (Appendix, *infra,* pp. 24, 17).

With a few exceptions the evacuees from Military Area No. 1 were transported on the day that their exclusions were mandatory under the respective exclusion orders, under the direction of General DeWitt's headquarters, to Assembly Centers, or to Relocation Centers established by the War Relocation Authority pursuant to Executive Order No. 9102 (7 F. R. 2165).[4] Egress from such Assembly or Relocation Centers, except

---

[4] See "Instructions for Activities in Evacuation Projects," printed in House Report No. 2124, Fourth Interim Report of House of Representatives Select Committee Investigating National Defense Migration (77th Cong., 2nd Sess.), at p. 40.

Executive Order No. 9102 established the War Relocation Authority and authorized its Director to formulate and effectuate a program for the removal, relocation, maintenance and supervision of persons ordered excluded under Executive Order No. 9066.

pursuant to authority obtained from the Headquarters of General DeWitt, was prohibited by an order of General DeWitt dated May 19, 1942, (8 F. R. 982), *infra*, pp. 28–29.

Except for a few persons released on an individual basis from the Assembly Centers and a number released therefrom as part of supervised agricultural labor groups, the evacuees who had been removed to Assembly Centers were transferred from there to Relocation Centers. The prohibition in the order of May 19 with respect to leaving such Relocation Centers was incorporated by General DeWitt in his Public Proclamation No. 8, issued on June 27, 1942, *infra*, pp. 30–32, with respect to all Relocation Centers within the Western Defense Command; by letter of August 11, 1942, General DeWitt delegated authority to the War Relocation Authority to issue permits for persons to leave such centers. On August 13, 1942, Secretary of War Stimson issued Public Proclamation No. WD–1, which prohibited the egress of evacuees residing in relocation centers outside the Western Defense Command without permission from the Secretary of War or the Director of the War Relocation Authority (7 F. R. 6593). Acting pursuant to Executive Order No. 9102, the letter of authorization from General DeWitt of August 11, 1942, and Public Proclamation No. WD–1, the War Relocation Authority established a system for granting leave to persons confined in the War Relocation centers who sat-

isfy specified requirements. (See regulations of the War Relocation Authority dated September 26, 1942, 7 F. R. 7656; revised regulations dated January 1, 1944, 9 F. R. 154.)

Petitioner's Violation of the Exclusion Orders.—An information (R. 1–2) filed in the District Court for the Northern District of California on June 12, 1942, charged the petitioner, a person of Japanese ancestry, with having knowingly remained, on or about May 30, 1942, in the city of San Leandro, Alameda County, California, which was a part of Military Area No. 1 established by Public Proclamation No. 1 of March 2, 1942, and from which all such persons had been ordered excluded after May 9, 1942, by Civilian Exclusion Order No. 34 of May 3, 1942, issued by Lieutenant General John L. DeWitt, Commanding General of the Western Defense Command, pursuant to Executive Order No. 9066 of February 19, 1942, and authority from the Secretary of War.[1]

A demurrer to the information (R. 3–18) and a supplement to the demurrer (R. 22–23) were overruled on August 31, 1942 (R. 24), and an exception taken (R. 31). On September 8, 1942, the petitioner appeared in the trial court in the custody of the military authorities, pleaded not guilty, waived trial by jury and proceeded to trial (R. 25). It was stipulated on the record

[1] The information consequently charged violation of the Act of March 21, 1942 (18 U. S. C., Supp. II, 97a), which was mentioned in the caption but not in the body of the information (R. 1).

that the petitioner is a native-born citizen of the United States, born in Oakland, Alameda County, California, on June 30, 1919, and is the son of Japanese nationals resident in California (R. 32); and that at the time of his arrest on May 30, 1942, the petitioner was in the City of San Leandro, Alameda County, California, within the area from which he, as a person of Japanese ancestry, had been ordered excluded by General DeWitt's Public Proclamation No. 1 and Civilian Exclusion Order No. 34 (R. 32).

A Special Agent of the Federal Bureau of Investigation testified that he interviewed the petitioner on May 31, 1942, and obtained a written statement (U. S. Ex. No. 1, R. 33–35) which was received in evidence and states that the petitioner had lived all his life with his folks until four weeks before they had to evacuate; that he left home at that time telling them that he was going to Nevada but instead stayed in Oakland to earn enough money to take his girl, of Italian nationality, with him to the Midde West (R. 34); that between the time he left home and the date of evacuation he lived for two weeks in San Francisco during an operation on his face for the purpose of changing his appearance so that he would not be subjected to ostracism when he went East; that after the other Japanese were evacuated he lived in Oakland and worked in Berkeley and after the date of evacuation used the name of Clyde Sarah where he roomed and where he worked; registered for a new social security card under that name, and

changed his draft registration card (U. S. Ex. No. 3 in evidence, R. 37–38) with ink remover to "Clyde Sarah" (R. 34–35). The Special Agent testified that he interviewed the petitioner on June 1, 1942 and obtained a second written statement (U. S. Ex. No. 2, R. 35–36) which was received in evidence and states that he had been living and working in Alameda County since the date of evacuation and seeing his girl once or twice a week in the evening, and that on May 30, 1942, the day on which he was arrested, he was with his girl and told her that he had quit his job and was going to give himself up (R. 36). The Special Agent further testified that the petitioner told him that he had adopted the name Clyde Sarah to disguise his identity as a Japanese American born citizen; that he wanted to remain in Alameda County, Oakland, and San Leandro because of friendly relationships with people there and that he consid red himself an American and did not want to be evacuated (R. 36–37). The Government rested its case and the petitioner's motion for dismissal of the information and judgment of acquittal was denied (R. 38).

The petitioner testified on his own behalf that he was single, that he had resided with his parents since his birth in Oakland nd that he had three brothers each born in Oakla d; that he had never departed from the continenta limits of the United States; that he was graduated from Stoners Grammar School and the Castlemont High School in Oakland; that he had attended Los Angeles

Junior College in Los Angeles for three months in 1938 where he studied chemistry and worked after school hours to earn his way through college and was compelled to abandon his studies because of his inability to earn sufficient funds to support himself (R. 39). He returned to work in Oakland in the nursery of his father who is now at the Tanforan Assembly Center and a man has taken over his nursery (R. 39). Because of physical defects he was rejected for military service under the Selective Service and Training Act of 1940 and studied welding and obtained employment as a welder for two and a half months before the war. He has been a registered voter in Alameda County since attaining the age of twenty-one years. (R. 39.) He testified that he has never renounced his American citizenship; that he registered for the draft, and is ready, willing and able to bear arms for this country and is willing to enlist and to render any service that he may be called upon in our war against the Axis nations including the Empire of Japan (R. 40). He testified that he did not owe allegiance to any country other than the United States and had no dual allegiance of citizenship and that his birth has not, either with his consent or knowledge, been registered with any consul of the Empire of Japan; that he has never attended and never cared to attend any Japanese school, and is not familiar with the Japanese language as a native and speaks "Japanese in broken English" (R. 40). He cannot read the Japanese language either in manuscript or newspaper form. He un-

derstands a little Japanese when it is spoken, and, as his mother does not understand his broken speech, his elder brother interprets his English into Japanese for her. He testified that he was never charged with any felony or misdemeanor and has never renounced his citizenship. (R. 40.)

On cross-examination the petitioner stated that he was not a member of the Japanese Association, and did not know whether his birth had ever been registered thru the Japanese Association but did not think it had. He did not think that his brothers were registered with the Japanese Association. He testified that his brothers and he naturally belong to this country and did not know any other country; that he was willing to enlist but he had stomach ulcers and the doctors told him he was not fit for service. On being rejected in the draft he spent $150 out of his own pocket to study welding and went to work in the shipyards as a welder. He changed his name to conceal his identity as a person of Japanese ancestry and had an operation to change his facial appearance for the same purpose, but he did not think that this made any change in his appearance, for when he went to the Tanforan Assembly Center everyone knew him and his folks did not know the difference. (R. 40–41.)

The petitioner's motion in arrest of judgment was denied and the court sentenced him to a period of probation for five years (R. 42), on September 8, 1942, the judgment was entered (R. 25–26). On appeal to the circuit court of appeals,

that court certified the question whether the judgment was an appealable one. After this Court's decision (319 U. S. 432) in the affirmative, the circuit court of appeals sitting *en banc* unanimously affirmed the conviction, two judges delivering concurring opinions.

DISCUSSION

We agree with the court below that the question in the present case of the power to exclude all persons of Japanese ancestry from the military areas is ruled by the decision of this Court in *Hirabayashi* v. *United States*, 320 U. S. 81, holding the military curfew order valid. The facts judicially noticed in that case, bearing upon the validity of the classification of persons of Japanese ancestry and the relationship between the measures taken to the prevention of espionage and sabotage, are equally relevant in the present case. The time and purpose of the curfew order and of the exclusion order here involved are closely similar. Legislative and executive authority for the exclusion order would seem to be even plainer than such authority for the curfew order, since the Act of March 21, 1942, *infra*, p. 17, and the prior Executive Order No. 9066, *infra*, pp. 15–17, relate in terms to prohibitions against remaining in designated military areas, and Congress was well informed, at the time of passing the act in question, of the projected evacuation of persons of Japanese ancestry. See the Government's brief in the *Hirabayashi* case, No. 870, 1942 Term, pp. 38–41.

It is believed that questions relating to subsequent detention are not properly in issue in the present case. The conviction here was for remaining within the designated area after the final date fixed for evacuation. It is true that the evacuation required close control over the movement of the persons affected. But petitioner was not detained in an assembly center for any period, and he objected generally to exclusion (R. 36–37) without addressing his objection particularly to the restraint involved in connection therewith.[6] In refusing to present himself and in remaining in the area the petitioner was not entitled to assume that the character or duration of subsequent control would be unreasonable or would afford ground for legitimate complaint. Particularly is this true since the writ of habeas corpus remained available as a means of testing the legality of any subsequent detention, and of doing so on a record which would present a real and not an assumed state of facts. Whether petitioner would have found it necessary or desirable to apply for release in this manner is itself a matter of conjecture.[7]

[6] Some evacuees were released from assembly centers; the majority were transferred to relocation centers operated by War Relocation Authority. The transfer was completed by November 1942. First Quarterly Report of W. R. A. (March 18 to June 30, 1942), pp. 17–18; Second Quarterly Report of W. R. A. (July 1 to Sept. 30, 1942), pp. 2–3, 11–14; and Quarterly Report of W. R. A. (October 1 to December 31, 1942), pp. 1–3; Senate Document No. 96, 78th Cong., 1st Sess., pp. 7–8, Segregation of Loyal and Disloyal Japanese in Relocation Centers.

[7] The validity of detention in a war relocation center is in issue in *Endo* v. *Eisenhower*, pending on appeal in the Circuit

While the exclusion order here involved results in substantially greater impairment of liberties than did the curfew order and while this Court in the *Hirabayashi* case reserved the question herein raised, we believe that the decision below is correct under the principles of the *Hirabayashi* case.* If the Court should regard the *Hirabayashi* decision as not dispositive of the present case, or should, contrary to our position, deem the validity of the detention of other persons of Japanese ancestry in war relocation centers to be properly in issue here, the case would present Federal questions of importance and the Government would recognize the propriety of further review.

Respectfully submitted.

CHARLES FAHY,
Solicitor General.
EDWARD J. ENNIS,
Director, Alien Enemy Control.

MARCH 1944.

Court of Appeals for the Ninth Circuit, the district court having refused to grant a discharge on a writ of habeas corpus. In the light of this proceeding it is difficult to understand the suggestion in the brief of *amicus curiæ* in this Court to the effect that the order here in question is an attempt "to circumvent the prohibition against the suspension of habeas corpus" (Brief, p. 6). The statement in the concurring opinion of Judge Stephens (R. 99, n. 3a) that no one confined in a war relocation center has prosecuted a petition for a writ of habeas corpus to decision must be read to take account of the pendency of the *Endo* case.

The present case is the only criminal proceeding now pending involving violation of a general exclusion order.

APPENDIX

EXECUTIVE ORDER NO. 9066, DATED FEBRUARY 19, 1942, 7 F. R. 1407

AUTHORIZING THE SECRETARY OF WAR TO PRESCRIBE MILITARY AREAS

WHEREAS the successful prosecution of the war requires every possible protection against espionage and against sabotage to national-defense material, national-defense premises, and national-defense utilities as defined in Section 4, Act of April 20, 1918, 40 Stat. 533, as amended by the Act of November 30, 1940, 54 Stat. 1220, and the Act of August 21, 1941, 55 Stat. 655 (U. S. C., Title 50, Sec. 104):

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, and Commander in Chief of the Army and Navy, I hereby authorize and direct the Secretary of War, and the Military Commanders whom he may from time to time designate, whenever he or any designated Commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded, and with respect to which, the right of any person to enter, remain in, or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion. The Secretary of War is hereby

authorized to provide for residents of any such area who are excluded therefrom, such transportation, food, shelter, and other accommodations as may be necessary, in the judgment of the Secretary of War or the said Military Commander, and until other arrangements are made, to accomplish the purpose of this order. The designation of military areas in any region or locality shall supersede designations of prohibited and restricted areas by the Attorney General under the Proclamations of December 7 and 8, 1941, and shall supersede the responsibility and authority of the Attorney General under the said Proclamations in respect of such prohibited and restricted areas.

I hereby further authorize and direct the Secretary of War and the said Military Commanders to take such other steps as he or the appropriate Military Commander may deem advisable to enforce compliance with the restrictions applicable to each Military area hereinabove authorized to be designated, including the use of Federal troops and other Federal Agencies, with authority to accept assistance of state and local agencies.

I hereby further authorize and direct all Executive Departments, independent establishments and other Federal Agencies, to assist the Secretary of War or the said Military Commanders in carrying out this Executive Order, including the furnishing of medical aid, hospitalization, food, clothing, transportation, use of land, shelter, and other supplies, equipment, utilities, facilities, and services.

This order shall not be construed as modifying or limiting in any way the authority heretofore

granted under Executive Order No. 8972, dated December 12, 1941, nor shall it be construed as limiting or modifying the duty and responsibility of the Federal Bureau of Investigation, with respect to the investigation of alleged acts of sabotage or the duty and responsibility of the Attorney General and the Department of Justice under the Proclamations of December 7 and 8, 1941, prescribing regulations for the conduct and control of alien enemies, except as such duty and responsibility is superseded by the designation of military areas hereunder.

Act of March 21, 1942, c. 191, 56 Stat. 173, 18 U. S. C., Supp. II, 97a).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whoever shall enter, remain in, leave, or commit any act in any military area or military zone prescribed, under the authority of an Executive order of the President, by the Secretary of War, or by any military commander designated by the Secretary of War, contrary to the restrictions applicable to any such area or zone or contrary to the order of the Secretary of War or any such military commander, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be guilty of a misdemeanor and upon conviction shall be liable to a fine of not to exceed $5,000 or to imprisonment for not more than one year, or both, for each offense.

PUBLIC PROCLAMATION No. 1, 7 F. R. 2320

WAR DEPARTMENT

(Public Proclamation No. 1)

Headquarters Western Defense Command and Fourth Army, Presidio of San Francisco, California.

MILITARY AREAS NOS. 1 AND 2 DESIGNATED AND ESTABLISHED

MARCH 2, 1942.

To: The people within the States of Arizona, California, Oregon, and Washington, and the Public Generally.

Whereas by virtue of orders issued by the War Department on December 11, 1941, that portion of the United States lying within the States of Washington, Oregon, California, Montana, Idaho, Nevada, Utah and Arizona, and the Territory of Alaska has been established as the Western Defense Command and designated as a Theatre of Operations under my command; and

Whereas by Executive Order No. 9066, dated February 19, 1942, the President of the United States authorized and directed the Secretary of War and the Military Commanders whom he may from time to time designate, whenever he or any such designated commander deems such action necessary or desirable, to prescribe military areas in such places and of such extent as he or the appropriate Military Commander may determine, from which any or all persons may be excluded,

and with respect to which the right of any person to enter, remain in or leave shall be subject to whatever restrictions the Secretary of War or the appropriate Military Commander may impose in his discretion; and

Whereas the Secretary of War on February 20, 1942, designated the undersigned as the Military Commander to carry out the duties and responsibilities imposed by said Executive Order for that portion of the United States embraced in the Western Defense Command; and

Whereas the Western Defense Command embraces the entire Pacific Coast of the United States which by its geographical location is particularly subject to attack, to attempted invasion by the armed forces of nations with which the United States is now at war, and, in connection therewith, is subject to espionage and acts of sabotage, thereby requiring the adoption of military measures necessary to establish safeguards against such enemy operations;

Now therefore, I, J. L. DeWitt, Lieutenant General, U. S. Army, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General of the Western Defense Command, do hereby declare that:

1. The present situation requires as a matter of military necessity the establishment in the territory embraced by the Western Defense Command of Military Areas and Zones thereof as defined in Exhibit 1, hereto attached, and as generally shown on the map attached hereto and marked Exhibit 2.

2. Military Areas Nos. 1 and 2, as particularly described and generally shown hereinafter and in Exhibits 1 and 2 hereto, are hereby designated and established.

3. Within Military Areas Nos. 1 and 2 there are established Zone A–1, lying wholly within Military Area No. 1; Zones A–2 to A–99, inclusive, some of which are in Military Area No. 1, and the others in Military Area No. 2; and Zone B, comprising all that part of Military Area No. 1 not included within Zones A–1 to A–99, inclusive; all as more particularly described and defined and generally shown hereinafter and in Exhibits 1 and 2.

Military Area No. 2 comprises all that part of the States of Washington, Oregon, California and Arizona which is not included within Military Area No. 1, and is shown on the map (Exhibit 2) as an unshaded area.

4. Such persons or classes of persons as the situation may require will by subsequent proclamation be excluded from all of Military Area No. 1 and also from such of those zones herein described as Zones A–2 to A–99, inclusive, as are within Military Area No. 2.

Certain persons or classes of persons who are by subsequent proclamation excluded from the zones last above mentioned may be permitted, under certain regulations and restrictions to be hereafter prescribed, to enter upon or remain within Zone B.

The designation of Military Area No. 2 as such does not contemplate any prohibition or regulation or restriction except with respect to the zones established therein.

5. Any Japanese, German or Italian alien, or any person of Japanese Ancestry now resident in Military Area No. 1 who changes his place of habitual residence is hereby required to obtain and execute a "Change of Residence Notice" at any United States Post Office within the States of Washington, Oregon, California and Arizona. Such notice must be executed at any such Post Office not more than five nor less than one day prior to any such change of residence. Nothing contained herein shall be construed to affect the existing regulations of the U. S. Attorney General which require aliens of enemy nationalities to obtain travel permits from U. S. Attorneys and to notify the Federal Bureau of Investigation and the Commissioner of Immigration of any change in permanent address.

6. The designation of prohibited and restricted areas within the Western Defense Command by the Attorney General of the United States under the Proclamations of December 7 and 8, 1941, and the instructions, rules and regulations prescribed by him with respect to such prohibited and restricted areas, are hereby adopted and continued in full force and effect.

The duty and responsibility of the Federal Bureau of Investigation with respect to the investigation of alleged acts of espionage and sabotage are not altered by this proclamation.

J. L. DEWITT,
Lieutenant General,
U. S. Army, Commanding.

Confirmed:
J. A. ULIO,
Major General,
The Adjutant General.

PUBLIC PROCLAMATION No. 4, 7 F. R. 2601

Headquarters Western Defense Command and Fourth Army, Presidio of San Francisco, California.

Public Proclamation No. 4.

MARCH 27, 1942.

To: The people within the States of Washington, Oregon, California, Montana, Idaho, Nevada, Utah and Arizona, and the Public Generally:

Whereas, by Public Proclamation No. 1, dated March 2, 1942, this headquarters, there was designated and established Military Area No. 1, and

Whereas, it is necessary, in order to provide for the welfare and to insure the orderly evacuation and resettlement of Japanese voluntarily migrating from Military Area No. 1, to restrict and regulate such migration:

Now, Therefore, I, J. L. DeWitt, Lieutenant General, U. S. Army, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General, Western Defense Command, do hereby declare that the present situation requires as a matter of military necessity that, commencing at 12:00 midnight, P. W. T., March 29, 1942, all alien Japanese and persons of Japanese ancestry who are within the limits of Military Area No. 1, be and they are hereby prohibited from leaving that area for any purpose until and to the extent that a future proclamation or order of this headquarters shall so permit or direct.

Any person violating this proclamation will be subject to the criminal penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, entitled: "An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving or Committing Any Act in Military Areas or Zones." In the case of any alien enemy, such person will in addition be subject to immediate apprehension and internment.

J. L. DEWITT,
Lieutenant General,
U. S. Army, Commanding.

CIVILIAN EXCLUSION ORDER NO. 34, 7 F. R. 3967

Headquarters Western Defense Command and Fourth Army, Presidio of San Francisco, California.

(Civilian Exclusion Order No. 34)

Persons of Japanese Ancestry Excluded from Restricted Area—Alameda County, California

MAY 3, 1942.

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this Headquarters, dated March 2, 1942, and March 16, 1942, respectively, it is hereby ordered that from and after 12 o'clock noon, P. W. T., of Saturday, May 9, 1942, all persons of Japanese ancestry, both alien and non-alien, be excluded from that portion of Military Area No. 1 described as follows:

All of that portion of the County of Alameda, State of California, within the boundary beginning at the point where the southerly limits of

the City of Oakland meet San Francisco Bay; thence easterly and following the southerly limits of said city to U. S. Highway No. 50; thence southerly and easterly on said Highway No. 50 to its intersection with California State Highway No. 21; thence southerly on said Highway No. 21 to its intersection, at or near Warm Springs, with California State Highway No. 17; thence southerly on said Highway No. 17 to the Alameda-Santa Clara County line; thence westerly and following said county line to San Francisco Bay; thence northerly, and following the shoreline of San Francisco Bay to the point of beginning.

2. A responsible member of each family, and each individual living alone, in the above described area will report between the hours of 8:00 A. M. and 5:00 P. M., Monday, May 4, 1942, or during the same hours on Tuesday, May 5, 1942, to the Civil Control Station located at: 920 "C" Street, Hayward, California.

3. Any person subject to this order who fails to comply with any of its provisions or published instructions pertaining hereto or who is found in the above area after 12 o'clock noon, P. W. T., of Saturday, May 9, 1942, will be liable to the criminal penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, entitled "An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving or Committing any Act in Military Areas or Zones," and alien Japanese will be subject to immediate apprehension and internment.

4. All persons within the bounds of an established Assembly Center pursuant to instructions

from this Headquarters are excepted from the provisions of this order while those persons are in such Assembly Center.

J. L. DEWITT,
Lieutenant General, U. S. Army,
Commanding.

(Instructions Accompanying Civilian Exclusion Order No. 34)

Western Defense Command and Fourth Army Wartime Civil Control Administration, Presidio of San Francisco, California.

INSTRUCTIONS TO ALL PERSONS OF JAPANESE ANCESTRY LIVING IN THE FOLLOWING AREA

All of that portion of the County of Alameda, State of California, within the boundary beginning at the point where the southerly limits of the City of Oakland meet San Francisco Bay; thence easterly and following the southerly limits of said city to U. S. Highway No. 50; thence southerly and easterly on said Highway No. 50 to its intersection with California State Highway No. 21; thence southerly on said Highway No. 21 to its intersection, at or near Warm Springs, with California State Highway No. 17; thence southerly on said Highway No. 17 to the Alameda-Santa Clara County line; thence westerly and following said county line to San Francisco Bay; thence northerly, and following the shoreline of San Francisco Bay to the point of beginning.

Pursuant to the provisions of Civilian Exclusion Order No. 34, this Headquarters, dated May 3, 1942, all persons of Japanese ancestry, both alien and non-alien will be evacuated from the

above area by 12 o'clock noon, P. W. T., Saturday, May 9, 1942.

No Japanese person living in the above area will be permitted to change residence after 12 o'clock noon, P. W. T., Sunday, May 3, 1942, without obtaining special permission from the representative of the Commanding General, Northern California Sector, at the Civil Control Station located at:

920 "C" Street.
Hayward, California.

Such permits will only be granted for the purpose of uniting members of a family, or in cases of grave emergency.

The Civil Control Station is equipped to assist the Japanese population affected by this evacuation in the following ways:

1. Give advice and instructions on the evacuation.

2. Provide services with respect to the management, leasing, sale, storage or other disposition of most kinds of property, such as real estate, business and professional equipment, household goods, boats, automobiles, and livestock.

3. Provide temporary residence elsewhere for all Japanese in family groups.

4. Transport persons and a limited amount of clothing and equipment to their new residence.

THE FOLLOWING INSTRUCTIONS MUST BE OBSERVED:

1. A responsible member of each family, preferably the head of the family, or the person in whose name most of the property is held, and each individual living alone, will report to the

Civil Control Station to receive further instructions. This must be done between 8:00 A. M. and 5:00 P. M. on Monday, May 4, 1942, or between 8:00 A. M. and 5:00 P. M. on Tuesday, May 5, 1942.

2. Evacuees must carry with them on departure for the Assembly Center, the following property:

(a) Bedding and linens (no mattress) for each member of the family;

(b) Toilet articles for each member of the family;

(c) Extra clothing for each member of the family;

(d) Sufficient knives, forks, spoons, plates, bowls and cups for each member of the family;

(e) Essential personal effects for each member of the family.

All items carried will be securely packaged, tied and plainly marked with the name of the owner and numbered in accordance with instructions obtained at the Civil Control Station. The size and number of packages is limited to that which can be carried by the individual or family group.

3. No pets of any kind will be permitted.

4. No personal items and no household goods will be shipped to the Assembly Center.

5. The United States Government through its agencies will provide for the storage at the sole risk of the owner of the more substantial household items, such as iceboxes, washing machines, pianos and other heavy furniture. Cooking utensils and other small items will be accepted for storage if crated, packed and plainly marked with the name and address of the owner. Only

one name and address will be used by a given family.

6. Each family, and individual living alone, will be furnished transportation to the Assembly Center or will be authorized to travel by private automobile in a supervised group. All instructions pertaining to the movement will be obtained at the Civil Control Station.

Go to the Civil Control Station between the hours of 8:00 A. M. and 5:00 P. M., Monday, May 4, 1942, or between the hours of 8:00 A. M. and 5:00 P. M., Tuesday, May 5, 1942, to receive further instructions.

J. L. DEWITT,
Lieutenant General, U. S. Army,
Commanding.

MAY 3, 1942.

See Civilian Exclusion Order No. 34.

CIVILIAN RESTRICTIVE ORDER NO. 1, DATED MAY 19, 1942, 8 F. R. 982

WAR DEPARTMENT.

(Civilian Restrictive Order 1)

Persons of Japanese Ancestry—Procedure for Departure From Assembly Centers, Etc.

MAY 19, 1942.

Headquarters Western Defense Command and Fourth Army, Office of the Commanding General, Presidio of San Francisco, California.

1. Pursuant to the provisions of Public Proclamations Nos. 1 and 2, this headquarters, dated March 2, 1942, and March 16, 1942, respectively: *It is hereby ordered,* That all persons of Japanese ancestry, both alien and non-alien who now, or shall hereafter reside, pursuant to exclusion orders and instructions from this headquarters, within the bounds of established assembly centers, reception centers or relocation centers, as such bounds are designated on the ground by boundary signs in each case, shall during the period of such residence be subject to the following regulations:

(a) All such persons are required to remain within the bounds of assembly centers, reception centers or relocation centers at all times unless specifically authorized to leave as set forth in paragraph (b) hereof.

(b) Any such person, before leaving any of these centers, must first obtain a written authorization executed by or pursuant to the express authority of this headquarters setting forth the hour of departure and the hour of return and the terms and conditions upon which said authorization has been granted.

2. Any person subject to this order who fails to comply with any of its provisions or with the provisions of published instructions pertaining hereto will be liable to the penalties and liabilities provided by law.

J. L. DEWITT,
Lieutenant General, U. S. Army,
Commanding.

PUBLIC PROCLAMATION No. 8, 7 F. R. 8346

Headquarters Western Defense Command and Fourth Army, Presidio of San Francisco, California

PUBLIC PROCLAMATION NO. 8

JUNE 27, 1942.

To: The people within the States of Washington, Oregon, California, Montana, Idaho, Nevada, Utah and Arizona, and the Public Generally.

Whereas by Public Proclamation No. 1, dated March 2, 1942, this headquarters, there were designated and established Military Areas Nos. 1 and 2, and by Public Proclamation No. 2, dated March 16, 1942, this headquarters, there were designated and established Military Areas Nos. 3, 4, 5 and 6, and

Whereas the present situation within these military areas requires as a matter of military necessity that persons of Japanese ancestry who have been evacuated from certain regions within Military Areas Nos. 1 and 2 shall be removed to Relocation Centers for their relocation, maintenance and supervision and that such Relocation Centers be designated as War Relocation Project Areas and that appropriate restrictions with respect to the rights of all such persons of Japanese ancestry, both alien and non-alien, so evacuated to such Relocation Centers and of all other persons to enter, remain in, or leave such areas be promulgated;

Now, Therefore, I, J. L. DeWitt, Lieutenant General, U. S. Army, by virtue of the authority vested in me by the President of the United States and by the Secretary of War and my powers and prerogatives as Commanding General of the Western Defense Command, do hereby declare that:

a. Pursuant to the determination of military necessity hereinbefore set out, all the territory included within the exterior boundaries of each Relocation Center now or hereafter established within the Western Defense Command, as such boundaries are designated and defined by orders subsequently issued by this headquarters, are hereby designated and established as War Relocation Project Areas.

b. All persons of Japanese ancestry, both alien and nonalien, who now or shall hereafter be or reside, pursuant to exclusion orders and instructions from this headquarters, or otherwise, within the bounds of any established War Relocation Project Area are required to remain within the bounds of such War Relocation Project Area at all times unless specifically authorized to leave as set forth in Paragraph c hereof.

c. Any person of Japanese ancestry, both alien and nonalien, who shall now or hereafter so be or reside within any such War Relocation Project Area, shall, before leaving said Area, obtain a written authorization executed by or pursuant to the express authority of this headquarters setting forth the effective period of said authorization and the terms and conditions upon and purposes for which it has been granted.

d. No persons other than the persons of Japanese ancestry described in Paragraph b hereof, and other than persons employed by the War Relocation Authority established by Executive Order No. 9102, dated March 18, 1942, shall enter any such War Relocation Project Area except upon written authorization executed by or pursuant to the express authority of this headquarters first obtained, which said authorization shall set forth the effective period thereof and the terms and conditions upon and purposes for which it has been granted.

e. Failure of persons subject to the provisions of this Public Proclamation No. 8 to conform to the terms and provisions thereof shall subject such persons to the penalties provided by Public Law No. 503, 77th Congress, approved March 21, 1942, entitled "An Act to Provide a Penalty for Violation of Restrictions or Orders with Respect to Persons Entering, Remaining in, Leaving, or Committing any Act in Military Areas or Zones."

J. L. DEWITT,
Lieutenant General,
U. S. Army, Commanding.

U. S. GOVERNMENT PRINTING OFFICE: 1944